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ABSTRACT

Because state agencies have found that the licensing of family day care homes presents administrative problems which are quite different from the licensing of day care centers this report presents arguments against traditional licensing practices. Six alternatives are suggested for states making decisions about their future directions in family day care regulation: (1) Continue to license family day care, making some improvements in licensing statutes and procedures, and adopt one of four different models for registration which have been proposed by experts, which are: (2) registration as a form of licensing; (3) registration as directing regulation; (4) registration with required training of family day care mothers; and (5) simple registration. The final option (6) is to abandon the effort to license or to register, but put the same effort into upgrading homes through nonregulatory methods such as support systems and education of the public. An incentive program for registration is deemed to be a necessary corollary to any chosen model, and a further refinement of each of the basic alternatives is suggested before a basis for uniform recommendations to the states can be made. (CS)

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ALTERNATIVES FOR REGULATION OF FAMILY DAY CARE HOMES FOR CHILDREN

by Gwen G. Morgan

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Gwen Morgan

During the past fifteen years, state agencies administering day care licensing have found that the licensing of family day care homes presents problems for administration which are quite different from the licensing of day care centers.

States have had enough experience with licensing to be confident that licensing centers is a feasible and attainable goal. With a reasonable commitment of funds and staff, states can license centers in a way which safeguards children and is helpful to operators. Not all states have made this commitment, and, among those which have, many believe that they should do a much better job. But at least their experience tells them that it is a job which can be done, and done well. Only a few have exemptions of serious consequence -- by size of political subdivision, age of children in care, or religious auspices. Most states have licensed almost all of their centers as defined in their statutes, perhaps as many as 95%.

Family day care, on the other hand, is a long way from being safeguarded through licensing or any other kind of regulation. States which have been persistent in trying to carry out

family day care licensure estimate that no more than 5 to 10% of the homes have been licensed. According to the Westat survey, a minimum of 837,000 children are cared for in family day care homes year-round, and another 150,000 children are cared for during the summer months. 98% of the family day care homes that receive these 987,000 are not licensed.[1]

Most of the homes that are licensed are being visited only once per year, an administrative standard which cannot assure parents and the community of the safety, health and well being of their children.

This lag persists, although most states have steadily increased their day care licensing appropriations and staff allocations, some of them as much as 5 and even 10 times what they were 10 years ago when day care licensing was young. The increases have made it possible to keep pace with the increasing numbers of group care facilities, but not with the increase in family day care homes, typically defined as those caring for no more than six children including the caregiver's own children.

A number of state licensing authorities are now questioning whether they can or should try to build up the numbers of staff necessary to license the estimated 90-95% of unlicensed but operating family day care homes. Their questions go not only

to the large numbers of staff who would be needed, but to whether they might ensure better quality for family day care by some approach other than licensing.

Basic Assumptions

Several basic assumptions underly the alternatives to be suggested in this paper.

- All children have the same developmental needs. They and their parents deserve the same protection by the state, whether their day time care is in a family setting or a center. It is important not to develop a double standard tolerating poor and perhaps harmful care in homes while insisting on quality care in centers. Low quality family day care is not the quick and dirty answer to the nation's need for child care. Nor is it a cheap way of getting mothers off welfare.*

- Family day care is the sharing of a real home with a child or children. It is not the conversion of a home to a small child welfare institution which is "home-like." No form of regulation should be allowed to undermine the day care home as a home.

*Most cost analyses have found that day care in homes and centers has roughly the same true costs, when the needed support system's costs are included. For purposes of cost analysis, family day care can be thought of as a "dispersed center", a phrase used by Carl Staley.

- All children in every type of care deserve to be treated equally. If a state is licensing only a small number of its family day care homes, it is failing to protect all its children equally.

- Government must deal fairly with people. If a state enforces licensing for some providers and leaves vast numbers of other providers unregulated it is failing to treat fairly all persons who provide day care services in their homes.

- Parents have the right and the responsibility to share in safeguarding the daytime care of their children.

- The community, at the state and local level has an obligation, moral and legal, to safeguard its children who are in day time care. An important tool in preventing harm continues to be the use of the authority of the state. Certainly society is weakened by punitive and authoritarian misuse of power, but just as certainly society depends on its good policemen.

<u>What is Happening in the States</u>

The past several years have seen a great deal of self-analysis in state and local licensing offices. States are

examining their family day care licensing, and questioning whether they may have missed opportunities for needed protection on the one hand, while creating needlessly formidable barriers to operators on the other. Similar self-examination is going on in other countries. In England, a study of illegal child minding has linked its effects to poor school performance, unemployment, delinquency, poverty.[2] A review of this research[3] suggests that a less stringent regulatory method might have identified the caregivers in the area so that help could have been provided them.

In this country, it is estimated that fewer than 5% of the homes caring for children have been licensed.[4] However, there are exceptions, particularly in rural areas. Vermont's Office of Child Development estimates that there are 400 homes to be licensed and that 300 of them are known and can be licensed.[5] But most non-rural states do not believe they are reaching many of their family day care homes, and few believe they could license all of them without a major and unlikely increase in staff.

Some ten states which are licensing homes have defined family day care in such a way that many homes do not have to

be licensed.[6] In New Jersey, for example, licensure begins only when the home takes in as many as five children. The care of four or fewer children is left unregulated. Narrowing definitions in this way makes the task of the licensing office more manageable, but leaves many children unprotected.

A few states have made a heavy and enthusiastic commitment in limited geographic areas to improving family day care through the use of licensing staff. In New York City, for example, in a large demonstration day care system, licensing staff were diverted and built into the service system in a consultant and supervisory role. They were support staff relating to the homes in the demonstration program, but offering no regulatory help to the children in the many unlicensed homes in the city. California in some counties has funded very large staffs to provide support services to family day care homes. Wisconsin and a few other states have been following the same road. These states, as in New York City, perceived an unmet need for support services, without which quality could not be achieved, and took on this role. One might question whether this need should be met through the staff of the regulatory agency, or whether it might be more appropriate to build it into the program development and service

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providing agencies, or contract for it as part of the per child cost of a family day care service system as is being done in Massachusetts.

In these few states making a major commitment to a support system for family day care through licensing, the staff can visit only a few homes, often as few as 15. One researcher who had surveyed the literature concluded that no more than 25 homes can be covered by a licensing worker in family day care.[7] However, his figures were skewed by the type of licensing in which the staff becomes a part of the service system. Most state licensing workers in family day care have heavier work loads than this.

Few states have data indicating the extent of unlicensed family day care. A recent Texas study found that only 20% of the day care homes discovered through a survey were licensed.[8] This is a conservative finding, since the methodology consisted of identifying actual operating facilities by name, address, and child capacity. It is likely that large numbers of homes were not discovered.

In eight states in the southeast in 1971, there were only 1600 licensed family day care homes, and an estimated 360,000 children under six cared for in homes other than their own.[9] Georgia,

for example, has a family day care licensing law, but has never budgeted staff to implement it. Few complaints are being made by parents about the lack of protection.

Texas, on the other hand, is receiving child abuse complaints against family day care mothers, with the recent public interest in improved child protection in that state.

In Massachusetts, little family day care had been licensed before 1973, due to a handicapping overlap in legal responsibility. Including family day care among services to be regulated brought with it the automatic application of fire and safety regulations authorized not under the day care licensing statute, but under a state public safety statute. The safety department applied school house regulations to family day care homes along with centers, with the result that homes could not meet the requirements and thus could not be licensed. This problem has been legally corrected, but to date only a few hundred homes have been licensed.

A survey made of parents in Massachusetts revealed that 62,000 children under the age of six are regularly cared for in homes other than their own, exclusive of play groups.[10] Not all of these children are in homes which heed licensing, since

some are with relatives, and the survey did not separate out what was licensable.

With the correction of the legal obstacle, the Office for Children is now authorized to adopt feasible building safety requirements as well as licensing requirements, and enforce both through its licensing staff. If only half the children in homes other than their own are in licensable facilities, then the state will need to license an estimated 10,000 homes. To do a perfunctory job of licensing, the state would need 60 workers; to do a barely adequate job, with interim supervisory visits a few times a year to assure continuing compliance, would require 112. To do a good job would require several hundred workers. The General Court has funded the agency for the employment of only five workers.

In addition to the large numbers of licensed homes, there is also a large turnover in family day care homes, unlike other licensed services. For example, in Pinellas County, Florida, in two months, out of 435 homes, 69 new homes were added and 31 lost. It is usual in licensing to expect that a person seeking a license will continue to use it, since both the licensee and the state have invested heavily in it.

A study in Michigan[11] of licensed day care homes revealed that

neither parents nor providers found any value in ongoing state supervision of their homes, viewing such visits simply as an unwelcome intrusion. The study concluded that more education of the public and of providers is needed to help family day care mothers see their key role in the country's child nurturing. The study questioned whether traditional licensing is the best way to reach this goal, suggesting trial of a system of registration instead, supplemented by education of the public.

The large numbers of units to be licensed in family day care requires large numbers of staff to carry out traditional licensing, and this fact raises many questions. Given the needs of children, is this the most useful way to deploy 60 or 80 or 100 new staff people? Both the Southeast study and the Michigan study described above suggest that development of a cumbersome bureaucratic licensing operation is a circuitous route to protect children whose parents appear to accept responsibility for placement of their children without state safeguard.

Rethinking an Approach

Licensing is not the only form of regulation open to the states, nor is it the only way to achieve quality. Other methods

and combinations of methods might be thought through by states which are having difficulties with the traditional licensing method.

While other forms of protection and upgrading quality may be identified, we must not evade the need for regulation. Child advocates need to overcome our traditional discomfort over the use of regulatory authority. "Mutual coercion, mutually agreed upon by the majority of the people affected,"[12] is needed when voluntary action favors the conscienceless. We institute and support administrative law in spite of our ancient fear of it, because the alternative is worse.

At the level of neglect and abuse, state day care licensing agencies, with the assistance of community groups and other public and private agencies, should study their child protective laws, to see if these statutes apply to children equally across the state, whether they are in their own homes with their parents, in the care of relatives of babysitters in their own homes, in family day care homes of day care centers.

At the level of preventive protection, which is licensing, states should analyze their entire day care network, including centers, family day care, and in-home care, to decide how much

preventive protection we are ready to offer children and where we are ready to offer it. When we seek to upgrade through training, education of the public, funding standards, or the development of goal standards, we should be thinking of upgrading the entire child-caring network, reaching out to all those who are nurturing or failing to nurture the children in the state.

Whatever is done, there needs to be clarity about how the various methods of regulation and upgrading relate to one another.

Attitudes Toward Family Day Care Regulation

More attitudinal studies are needed before there can be knowledge of how family day caregivers and parents feel about one another and about the need for regulation.

If parents are truly confident that they can choose, negotiate with, and take responsibility for their children in family day care, then a cumbersome licensing system might only undermine the parental role. If parents feel at the mercy of a much needed service, not daring to investigate very far, then strong and effective state intervention is needed.

Some of the Reasons Given Why Family Day Care Providers do not Come Forward to be Licensed are the Following:[13]

- They do not know about the law. Public knowledge of regulation

of family day care is very low. Caregivers not only do not know that there are certain requirements which they should meet, they do not even know that there is a statute in many cases.

- Licensing appears to them too complicated, in contrast to the simple, natural thing they are seeking to do -- take care of children. The number and formality of the red tape, forms, certificates, and approvals appears intrusive into what they see as their natural right to do what they wish to do in their own homes.
- It looks expensive to them. Renovations which may be costly are viewed as a required part of the licensing process. Restrictions on the number of children to be served can result in the lowering of needed income.
- They fear and resent the intrusion of inspectors into their homes. Housekeeping and child rearing practices are part of the self-image of the home based woman, who is afraid of being measured and possibly criticized on these matters.
- They may identify licensing inspection with other kinds of painful inspection and interrogation they have had to undergo in the past, to get on welfare or deal with other

bureaucratic systems.

- They fear or resent having to report income from their family day care service to the Internal Revenue Service.
- Parents will use the service whether or not it is licensed, and since no increase in income comes with licensing, there seems no compelling reason to be licensed.
- They have observed little or no enforcement, with the negative sanction of fines of jail sentences.

Some of the reasons given why parents do not insist on licensing are:

- They do not know about it. Here too the existence of laws regulating child care is not too well known
- Parents see no value to their own children from licensing, viewing it as a one-time thing.
- They do not want to jeopardize desperately needed care.
- If licensing is done by the Welfare Department, they may prefer to avoid that agency because of unwillingness to be identified with the recent stigmas which have become associated with the once-positive word "welfare".
- They may feel confident and have a great deal of trust in their own ability to negotiate with the family day care mother, without back-up supervision.

All these points of view, both of providers and parents, need further systematic investigation. They may be accurate in some geographic areas and not in others; they may be common everywhere; or they may be incorrect assumptions made by biased observers.

A teacher of family day care mothers reports on a misconception of the degree of communication which exists between family day care mothers and parents:[13] "In one of the classes I gave on household safety, I remarked that in my experience, this was one of the things that parents worried about most, and therefore it should be very openly discussed between parent and caregiver. I could tell that my opinion wasn't given much weight, and after some questioning, one of the family day care mothers from a family day care system said, 'That's just not true! The parents who've come to my house for the most part never bring up the question of safety at all. I think they're either completely ignorant about it, or they just don't care.' All of the other family day care mothers in the system agreed that this was the case, and that safety wasn't much of a concern with parents. The coordinator of the family discussion sat through the discussion, but finally she said, 'This is really amazing. Do you know, the parents are always coming to me and asking

questions about safety in all of your homes. One of your parents, Mrs. P., wanted to know exactly where you keep medicines and your cleaning stuff. One of your parents, Mrs. M., wanted to know if you watched carefully to make sure the children wouldn't fall down the stairs.' She gave other examples, to the complete surprise of the family day care mothers. And this family day care system had the highest level of openness and good communication between caregiver and parent that I have ever seen." This kind of information on parent and caregiver attitude is of key importance in thinking through the form of regulation needed for family day care.

Family day care from a stranger is different from family day care by a friend[14] though not as different as we might have thought. A key variable is probably the question of whether family day care is offered in a community which can be described as "neighborly" or in a community with a high population turnover and a lack of stability and connectedness among the people who live there. This is not the same distinction as the friend-stranger distinction.

Jane Jacobs' analysis[15] of why the crime rate was low in the North End of Boston, found that the North End streets were filled with little Italian grandmothers who considered it their function

to sit in windows overlooking the streets and watch over the neighborhood. Having lived there for years, they knew the community and could detect strangers quickly. They reported transgressions by residents to their families. They looked out for the safety of children playing in or near the streets. The quality of life in the neighborhood was considered a shared responsibility.

Where there is such a strong neighborhood feeling, parents can rely heavily on community monitoring and shared community norms for protection of children. On the other hand, there are many areas which are not neighborhoods in this sense. Family mobility, urban renewal, displacement of housing by highways and other factors have created a situation of instability and lack of shared community in many residential places. Much day care is arranged through newspapers, bulletin boards in laundries, and is essentially one stranger offering another stranger a service, with neither living in a community which offers human support. Under such circumstances, parents may be reluctant to intrude into someone else's home with questions and demands, and cannot rely on neighbors of either the parent or the caregiver to act as a deterrent to neglect or

harmful conditions.

One extensive researcher[16] has positive feelings about the unlicensed homes which he has investigated, and fears that professionalizing them or placing over-formal requirements upon them may destroy a very important value, a remnant of community responsibility and neighborliness. Another researcher[17] in New York City found a large unlicensed network of service, some of which could be characterized by an essential quality of neighborliness and shared concern for children, but some of which was poor, exploitative, and potentially harmful. The difference may be in the type of community and the degree of stability of the neighborhood ties which exist among its residents.

These are big questions which should be researched to support decisions about family day care regulation. If the lack of demand for licensure reflects most parents' willingness to accept responsibility and to depend on their own ability to judge a family day care situation as meeting their own standards for their children, the role of the state might appropriately be public education of the public on the need for quality and what constitutes quality, along with program development activities

to increase available services so that parents are not forced by circumstances to use poor facilities, and child protective activities to deter abuse and neglect in day care. If, on the other hand, parents feel a need for at least back-up support from the state in dealing with strangers on whom there are few constraints, then the state's regulatory method, chosen to meet this need, might be one of substantial investigation and supervision, i.e., fully implemented licensure.

Some of the arguments given against traditional licensing as now administered:

A number of arguments have been made that the traditional method of licensing day care, which is successful for centers, may not be feasible for licensing homes. These include:

- The large number of family day care units requires large numbers of staff, leading to high dollar costs. This need for staff is further increased by the high turnover of family day care homes offering care.
- Because of insufficient staff and a lack of public demand for this safeguarding, large numbers of family day care homes operate illegally.
- Routine visits to all homes may not be the best use of

professional staff time. It diminishes the amount of staff time available to work with "problem" homes.

- Few parents or providers at present seem to see a need for licensing protection, viewing licensing as an unwelcome intrusion where it exists, as in the Michigan study, and accepting responsibility without complaint where it does not, as in Georgia.
- Licensing of some rather than all family day care homes is contrary to law, discriminatory, and a poor public service.
- Providing licensure first to families where federal money is used to purchase care serves (1) to impose two sets of requirements on these homes and (2) to have the effect of withholding licensing from homes used only by parents who pay for day care out of their own earnings.

  The poor view this as one more example of unfair state interference in the lives of the poor, which is not equally applied to others. This argument was made in Massachusetts by welfare mothers, who did not find very compelling the counter argument that the state was offering them a priority service and extra protection.
- Heavy handed imposition of even scattered family day care

licensing on a public which may not perceive a need for it may erode public support for center licensing.

Failure to license 90-95% of family day care homes, in states which cannot foresee a time when they will be able to achieve full coverage, is unfair, and may arouse public hostility, thus undermining all licensing.

- Licensing authorities staffed for no more than one visit a year cannot provide that guarantee against harmful conditions which the public has learned to associate with the word "license". Staff must be available to visit each home at least several times a year if an assurance of protection is to be made. Otherwise parents and community are led to relax their individual vigilance, their natural sense of responsibility undermined by a false sense of security. Without staff, licensure is a dishonest guarantee of protection.
- Over-formal regulation, however well done, may destroy the genuineness of family life shared with children in out-of-home care, creating homelike institutions rather than sharing real homes. It could also undermine the still commonly accepted value that children are the responsibility of their parents.

Technical, time-consuming licensing may not only be inappropriate, but it may also be counterproductive in this regard.

- When a service is defined as something to be licensed by the state, this definition often brings with it additional regulation imposed by other regulatory agencies than the licensing agency. Chief among these other forms of regulation which may be applied to family day care are zoning, deriving its authority from locally passed zoning bylaws under state enabling legislation; safety regulation, deriving its authority from state safety statutes, sometimes with additional local requirements, and usually locally enforced; health and sanitation requirements, deriving from public health statutes at the state level, sometimes with additional local requirements, and often enforced by several different health officials; and in some places local licensing in addition to state. The effect of all this regulation, and the application of requirements which were developed for other services more institutional in nature and which are often inappropriate for family day care, is to overwhelm the home with safeguards not required of other

family households, treating it as a small institution rather than a home. This additional regulation may be a major factor driving family day care underground. Few homes come forward to meet so many incompatible demands from such a formidable array of inspectors.

The Legal Inappropriateness of Family Day Care Licensing

Family day care licensing does not entirely fit the basic reasons for licensing.[18] There have been two historic developments which have led to the need for licensing. One is our change to a society which is technically specialized, in which the ordinary citizens have neither the expertise nor the access to inspect for quality and safety, and must rely on the authority of the state for protection. The second is the change to a society in which people have become more mobile, more likely to be strangers to one another, with the result that informal community supervision cannot be fully relied upon. Family day care may not fully fit these rationales. It is not so technical that the community cannot understand it and judge its quality. Parents have considerable opportunity to observe their children's care and to make requirements of the day care providers, at least in some geographic areas. There are still

communities which exhibit responsibility for the well being of the children in their midst.

Regulatory law can be classified into two basic legal categories, enabling regulation and directing regulation.[19] Enabling regulation, or licensing, is future oriented requiring a would-be provider to take the time and make the effort to "tool up", develop needed competencies and assure needed safety precautions, before being permitted to provide a service.

Directing legislation assures state intervention to punish infraction of the law, but does not require assurance of protection prior to operation. An example of directing regulation is our child labor laws, which can punish employers who exploit child labor, but which do not require proof in advance that no child can be hired before a factory may be allowed to operate. Another example is the minimum wage.

Licensing, being future oriented, is more appropriate to a stable and technical service, in which the operator makes a time consuming and often expensive investment in a license to operate, holding and using the license for a long time. The informal non-technical, and sometimes short term nature of home care may be less appropriate for enabling regulation, or formal

licensing, and might be more appropriately regulated under a directing type of statute.[18]

Options for the States

Given the arguments against licensing, from a practical and a legal point of view, states are assessing their situations and making decisions about their future directions in family day care regulation. There are basically six alternatives, ranging from the full implementation of the present licensing design, through four different models for registration, to abandoning both licensing and registration. These alternatives can be conceptualized as a continuum from the most formal regulatory method to the least formal.

The options are: (1) continue to license family day care, making some improvements in licensing statutes and procedures; adopt one of four different models of registration which have been proposed by different experts, which are: (2) registration as a form of licensing; (3) registration as directing regulation; (4) registration with required training of family day care mothers, and (5) simple registration. The final option (6) is to abandon the effort to license or to register, but put the same effort into upgrading homes through

non-regulatory methods such as support systems and education of the public.

Further refinement of these conceptual models and some field testing of them are needed before we have a basis for uniform recommendations to the states.

The first option: Improving the licensing system

States may decide to continue to try to license family day care homes. This decision must include realistic planning and commitment of resources to the effort, rather than the present wistful, mythical approach. It is important to begin to be honest about family day care licensing. It is not difficult to estimate how much staff would be required and the cost of that staff, if a state can estimate the number of homes to be licensed.

There are three actions which states can take which will alleviate some of the present problems.

First, states can amend their licensing statutes to provide for the licensing of "family day care systems". Homes which are part of a satellite system administered by a central administrative core, often with a group day care center as a training center and visible focal point, do not need to be licensed separately and

independently. If the administration and fiscal accountability is centralized, it could be questionable whether the individual homes have the autonomy to be licensed separately. Instead, the system can be licensed as a single entity, its administration held accountable for seeing that member homes meet basic requirements.

Homes, as sub-parts of a licensed system, would be approved by the system on the basis of state standards. They system itself would also have to meet additional standards which the state would place on systems, covering the number and qualifications of support staff, and services to the homes. If a system or one of its homes does not meet requirements, its license can be removed, and penalties invoked. It is likely that in such a case, the home would be dropped from membership by the system, and the state would then move against the home for operating illegally.

Licensing systems has the advantage of reducing the number of units to be licensed by the state, passing along some of the work of supervision to the service system. This concept is congruent with the concept of a family day care system as a dispersed center.

Massachusetts has passed such a statute, Chapter 785, An Act Establishing an Office for Children and Centralizing the Licensing Regulation, Placement and Monitoring of Day Care, Foster Care, and Group Care Services, Centers and Facilities. Section 10 of the Act reads:

> The office shall issue and may renew a license to any person* other than a department, agency or institution of the Commonwealth or any political subdivision thereof, who meets applicable standards and requirements to establish and maintain a day care center, family day care home which is not part of a family day care system, family day care system, family foster care which is not supervised and approved by a placement agency, placement agency, or group care facility."

Section 9 defines "family day care system" as:

> "any person who, through contractual arrangement, provides to family day care homes which it has approved as members of said system, central administrative functions including, but not limited to, training of operators of family day care homes; technical assistance and consultation to operators of family day care homes; inspection, supervision, monitoring, and evaluation of family day care homes; referral of children to available family day care homes; and referral of children to available health and social services; provided, however, that family day care system shall not mean a placement agency or a day care center."

The state Office for Children is now developing requirements for systems. Since at best, systems will probably combine a center with homes, licensing of systems should bring with it some reorganization of licensing staff to achieve integration of the personnel who license centers with those who license homes.

*The word "person" is used in a legal sense to include an individual, corporation, partnership, or other agency.

A second action which states might take to improve the licensing of family day care is to examine other statutes to determine whether the number and kinds of codes applied and inspections made by different agencies are appropriate for the size and informal characteristics of homes. Each agency of government operates under its own authority derived from its statutory mandate. While there may be logic in requiring a variety of inspections for centers and group homes, regulation of family day care by agencies other than the licensing authority should not go beyond the type of requirements made of homes in which families live with their own children.

Zoning has become in recent years a major obstacle to family day care, as well as to other community-based services.[20] In some states it will be possible to define day care as a "customary home use" in the state's enabling zoning statute, allowing family day care as a matter of right in all zones in which people live. At the local level, citizens can see that local zoning bylaws are worded in this way.

Fire and building safety codes are often over-rigid, with a major difficulty in getting inspectors to visit the homes. States need to examine their state statutes to determine whether a state

building safety statute includes family day care among the types of building covered by state codes. If not, and in most states there will not be such coverage, then there will be only the state licensing agency and the local fire and building safety involved in making improvements. Safety requirements can then be written into the licensing code, to be enforced by licensing staff. A model for such requirements may be found in the Life Safety Code for Day Care adopted by the National Fire Protection Association. Licensing staff could call on fire and building safety inspectors in cases where there is a suspicion that the home is not safe for habitation, but need not require formal inspections according to codes which are not applied to homes in which children live with their families.

If it is not possible to remove family day care from the jurisdiction of the public safety agency, then it may be necessary to amend the applicable building safety codes, at the state or at the local level or both, to include requirements appropriate for family day care. Either standards for general residential occupancy should be used, or the family day care requirements in the Life Safety Code of the National Fire Protection Association.

In the same way, state health codes, which are usually derived under the authority of health statutes, are many in number and usually inappropriate for family day care. Most states could benefit from commitment of staff time to write a health code especially for day care centers and family day care. It is important in writing such a code to make decisions on each requirement whether it should be the responsibility of the licensing authority or the health authority, to avoid duplication in the codes. Once written, such a code could be promulgated by the state health agency. Where possible, it would be desirable for the health department and the licensing department to make an agreement for the licensing staff to do the inspecting of homes on behalf of the health department to determine compliance with the health code for day care; ideally this code would be printed with the licensing requirements for family day care. Licensing staff should be able to call upon the expertise of various specialists in the health agency for purposes of supervision and consultation to the homes.

A third action which states can take to increase their coverage in licensing family day care homes would be to develop definitions and an appropriate set of requirements for

group homes. Group homes are usually defined as the care of between seven and twelve children in a residential setting. A group home is not the informal sharing of a home; it is more like a small informal center. To accommodate as many as twelve children, more than one staff person is needed, and it is reasonable to require minor structural renovations to assure safety of the group, beyond what might be required of a residential dwelling. Health and safety requirements should be suitably tailored to the needs of a very small service, and a set of requirements appropriate to group homes is needed, not only for licensing, but also for any other agencies which regulate group homes.

Attention to regulation of group homes is relevant to improving the coverage of licensure of family day care, since the woman who wants to provide a small child-caring service knows that even if she is licensed for family day care she will be operating illegally if she takes in more than the state's limitations on number of children, usually six. If she knows that beyond that point she must meet all the formal requirements for a center she faces a formidable array of expensive modifications to her house or apartment. Knowing this, if she has plans to include more children in the future, she may prefer to offer her

family day care illegally rather than become licensed. Requirements for group homes which are reasonable and appropriate to the type of service might bring some underground family day care to light as well as the group homes.

The more services a state can provide to licensed homes, the more incentives there are to submit to licensure. However, licensing is so costly to the state in staff that many states find it unlikely that they will be able to provide both licensing staff and funds for services.

Registration of family day care homes

The second, third, fourth, and fifth options to be described are different forms of registration. A number of states have been considering a less formal method of regulation than licensing.

Registration was suggested in a Children's Bureau publication on licensing,[21] and since that time a number of alternative models of registration have been proposed.[22] States considering registration are concerned that family day care be regulated, but are seeking a method which is gentler and has the potential of reaching more homes than traditional licensing. Eighteen states are discussing registration.

No state has field tested a model of registration as yet, and few have made the needed stautory changes. There is no model statute for registration, although several drafts are being prepared.

Virginia's statute for licensing, amended in 1972, makes two departures from the usual. Family day care is defined as "more than three children", leaving large numbers of children in unlicensed homes. However, the Act provides that "in case of a complaint in such a home where less than four children reside, the Commissioner may cause an investigation to be made as provided in 63.1-198 and may require such homes to comply with the provisions of this chapter applicable to family day care homes if he finds that such home is not conducive to the welfare of the children received therein." The Act further provides that the records of the licensing staff are confidential information which it is unlawful to disclose.

North Carolina's statute, passed in 1971, was the first to mention registration. The wording is:

> "Registration. It shall be unlawful for any person to offer or provide a day care plan unless such day care is registered with the Board in accordance with the system for registration which shall be developed by the Board."

"Day care Plan" is defined as

> "any day care program or child care arrangement where any person provides day care for more than one child and less than six children, and receives a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit."

The purpose of registration is described in the Act:

> "so that day care plans which are not subject to licensing may be identified, so that there can be an accurate census of the number of children placed in day care resources, and so that providers of day care who do not receive the educational and consultation services related to licensing may receive educational materials or consultation through the Board."

An independent licensing Board is directed "to administer the licensing program for day care facilities and the registration system for day care plans." The Board is further directed to "promote and coordinate educational programs and materials for operators of day care facilities and day care plans which are designed to improve the quality of day care available in the state, using the resources of other state and local agencies and educational institutions where appropriate."

Michigan recently passed a statute, Act No. 116 of the Public Acts of 1973, permitting the Department of Social Services to field test a model or models of registration in up to three counties in a two year demonstration project. Registration as defined in the Act "means the process whereby the department maintains a record of all family day care homes, promulgates

rules under section 2 of this act, and requires the person operating a family day care home to certify that he has complied with the rules."

In the absence of experience with registration, various conceptual models have been proposed. These different approaches to registration have many sub-variations but can be roughly divided into four groups.

The basic components are the following:[23]
A registry office is established at the county of district level, which maintains three records: (1) a registration book with the name and registration number of each applicant-registrant, (2) a master file registration control care, 6x8" with the immediately accessible information whether the home is pending, active or closed, plus face sheet and decision type of data, and (3) compiled statistics from the cards giving the total numbers of day care homes, by geographic area, and including capacities, numbers of children and families.

The same information on procedures would be used with both the family day care mothers and the parents. This would include instructions about where and how to register; and information to fill out which would be posted on the registration

card. The file card, the procedural form, and any educational materials would be developed by the agency staff and the public, using the committee method.

The staff maintaining the registry would be well trained and qualified clerical staff, supervised by a professional staff member. Experimentation is needed to determine the best agency in which to locate the registrars, the feasible geographic area to be covered by each registrar, and the number of registrars who can be supervised by one professional staff person.

Potential providers would go to a central place to register the fact of their providing family day care and reporting the numbers of children they are caring for. This procedure gives the method "officiality".[24]

Renewal, if at all, would be every two or three years, rather than annually, to avoid racing the calendar.

There would be no insistence on fire and health clearances. The emphasis would be on the fact that the child is in a genuine home, not an institution "like a home". Requirements which are not applied to homes in which children live with their families would be inappropriate to apply to family day care.

Different approaches to registration vary from the complex to the very simple.

The Second Option to the States in Regulating Family Day Care: Registration as a Form of Licensure[23]

In this model, states would register all family day care homes, and would promulgate requirements, but would make it clear to the public that no routine inspections are being done prior to registration. Regulatory staff would not visit the homes unless there were a complaint or a request for help. A variation on this model would allow staff to do random checking of some homes. (A variation in the other direction would have no visits, reporting cases of child neglect or abuse to the child protective agency.)

In general, this model is a form of licensure, since requirements are promulgated, and the state may examine records, enter homes, inspect, and invoke penalties when requirements are not met. The major difference is the fact that the state enlists the help of parents and the community, through wide distribution of the requirements in simple form, rather than inspecting prior to operation and collecting documentation on the provider.

Upon receiving a potential provider's statement that her home meets the requirements, states would issue a "certificate of registration", a formal statement that the home is registered with the state and that the provider has certified that her home meets state requirements. This certificate is in fact a license to operate, except that it is called by another name in order to avoid misleading the public into believing that the traditional inspections have been done and the traditional guarantees of quality made by the state.

Unless the state is very clear in its intention and educates the community to the differences between this form of registration and licensing in the traditional sense, this model could lead to some confusion, since it has elements in common with traditional licensing. Confusion would be especially great should a state which has been making a major effort to license family day care traditionally decide to adopt this different regulatory method.

Because it is a form of licensure this form of registration could probably be tested without a statutory change in many states, if the wish is to experiment without tinkering with the laws. However, a clearly worded statute would help to prevent confusion.

A number of variations, or levels, of this model are possible, depending on the resources which a state is able to commit. States might begin with a simple and relatively inexpensive model, and work toward adding more staff and support to the system at a later stage.

The basic elements of all registration, as described above, include a visit by a provider to a registry office to certify that her home is caring for children, and records kept in a registry. This model differs from the basic elements which all the registration models have in common because there are standards. The provider would be given the requirements themselves -- no more than 10 or 15 simply stated requirements which can be checked yes, no, or partially met, scored by the applicant on the basis of assigned weights, and reported to the registrar. The provider would be required to give a copy of the requirements and the procedures to the parent.

An unresolved issue for further study is the question of whether the registrant should be required to give a copy of the completed form to the parent, or only a copy of the requirements themselves. Regardless of how this is handled, it is an important part of this model to enlist the parents in their natural role of prime monitor and negotiator of quality of the care of their children. Parents should receive an attractively printed, but

brief, booklet describing registration. In it would be the information that the state believes that the basic requirements listed in the booklet are needed for the adequate care of any child in family day care; that the home where their child is cared for is striving to meet these basic requirements. If parents have any question about any of the requirements and whether they are being met in a particular home, they should talk the question over with the family day care mother in question to see if together they can find a way to meet the requirement. The registry office is ready to provide help and advice to both. At the end of the booklet, there should be a brief statement about how to make a complaint on the basis of the registration requirements, and also whom to inform if there is a suspicion of neglect or abuse of children in a home.

The parent in this model assumes considerable responsibility for the well being of her or his child in day care. Parents have copies of the requirements; and they negotiate with the day care mother; observe the home; and have recourse to whatever community services there are. Staff of the regulatory agency stands behind the parents in cases where requirements are not

being met, and protective enforcement assists parents in cases of suspected child abuse or neglect.

The family day care provider should also be informed how to report suspected child abuse or neglect. The state child protective statute should require reporting by child care providers and protect both providers and parents from potential suits if they make these required reports.

The state's responsibility is less than in traditional licensure. The state does not certify that the day care home meets requirements as it does when it licenses; it certifies that the family day care mother has stated that she believes her home meets requirements, and it makes sure that parents are informed about those requirements and of the parent role in negotiating with the provider on the basis of the requirements. The state makes no routine supervisory home visits. It does maintain records for information on the volume of family day care for planning and possible research. It does make lists of day care homes available, putting day care mothers and parents in touch with each other. Having identified the homes, if this model is successful, the state can provide information and services to them.

If and when the state has additional resources, another level could be added to improve the regulatory model. This would include an office interview for all applicants at the place of registration, by a professional; the maintenance of a mini-record; as well as greater use of the media for informing and providing education on child care, beamed both to the day care mother and the parent.

Still another level of commitment of resources would add on group instruction, training, and meetings of day care mothers and parents, a newsletter, and some home visits for individual teaching or consultation. The model does not include visits for supervision, but at every level of design, the model includes the idea that staff would be available to visit homes upon a complaint or a request for help.

For this, as in all six options, if attractive incentives to providers to make themselves known can be developed, the model has greater likelihood of achieving its goals.

Registration as directing regulation;[24] the third option for the states

This model is very similar for all practical purposes to the second option, registration as a form of licensing, but its

legal basis is quite different. The assumption underlying this model is that licensing is not the appropriate regulatory method for family day care, because of the service's lack of social visibility, its informal and transitory nature, the large number of units which it is costly to inspect, and the generalist, non-technical nature of the service. Rather than trying to bend licensing to make it fit a service to which it is inappropriate, an alternative statutory approach is taken.

Instead of the licensing language, the administrative lifting of a legislated prohibition which decrees in law that "No person shall provide family day care unless.." the statute would read like an order. Wording such as the following would be suitable: Persons providing care of a child or children in family day (definition elsewhere) shall register their names and addresses (and any other information the state wishes to require) with the Department (defined elsewhere), and shall meet such requirements as the Department shall determine.

Under this kind of statutory language, the state may enforce requirements, but without the heavy preparatory and future oriented emphasis of enabling language, which requires prior proof that the requirements will be met before allowing the

service to take place.

The major features of this model are similar to the previous model: registration of the fact of providing family day care and reporting the numbers of children in care, and perhaps their ages; a signed statement of awareness of the nature of state requirements and the provider's belief that the service meets the standards, or an agreement to achieve conformity; willingness to submit to inspection; willingness to supply users with a document which includes the state requirements and the manner of filing a complaint. Registration would be mandatory in the statute, but there would be no vested interest in holding a license, since no license would be involved. The latter feature is the one major difference with the previous model.

The state would, at the highest level of resource commitment to this model, establish a system of child care visitors, modelled on the home health visitors in Great Britain. They are responsible for community education for out of home care, and for providing consultation to individual homes, groups of parents and other community members. The visitors would determine "substantial conformity" to the requirements, a concept which is valid for supervision even though it raises

questions of due process in issuing a license. They would link the homes to educational services in the community, health and counseling services, and other community opportunities and help. If the visitor observes that the home does not conform to the standards, he or she would notify the person providing the care, and the user. If the parent does not try, or is unable to correct the situation, the visitor would notify the child protective agency, which would be responsible for enforcement.

The fourth option for the states: Registration with required training[25]

This model of registration is closer to staff certification than it is to traditional licensing of facilities. However, the training which would be required is neither very formal nor very technical, so it is possible that a "directing" rather than an "enabling" form of statute might be appropriate, although the credentialing of expert staff is a common form of enabling regulation.

A state choosing this option would require that all family day care homes must be registered, and that a pre-condition of registration is the acceptance of at least 6-8 hours of training provided by the state, at no cost, to potential

providers. Training would be designed to build the specific competencies needed by family day care providers, building upon work which is in progress in the field of training for day care.

The registration provides vital statistics. No requirements are promulaged or enforced, and no supervision is done. The state could refuse to register a home if the family day care mother did not successfully complete the training program, so the method could act as a form of screening.

States would have to decide which agency appropriately should provide the training. To avoid resentment, it might be preferable if the training agency were a different agency than the one maintaining the registry. In that case, of course, the two agencies would have to work closely together.

This model relies on a required training program as a way of linking up the family day care providers with one another and with community sources of help. If training can develop competencies and deepen sensitivities to children, then this model has the potential for developing more sensitive providers. Certainly it has the potential of seeing that providers operate in a relationship with a state agency or agencies which can provide continuing information and support. As in all the

options, many services could be provided if the state has the resources and the commitment to provide them.

The Fifth Option of the states: Registration with Education of the Community[26]

A state choosing this option, the fourth of four different models of registration, would require that all family day care providers must register with the state. This required registration would provide a record of all providers, with certain needed statistics. No supervision would be done of the homes, and no requirements would be promulgated or enforced. The emphasis would be on playing a helpful role so as to identify the providers by name and address, so as to send them educational materials. Standards could be included among the educational materials, but they would not be requirements. Proponents of this model believe there is considerable advantage simply in knowing where all the family day care homes are, and they are hopeful that the state can achieve full coverage by this method.

The model relies on non-regulatory services, and education of the public for upgrading the quality of the existing family day care network. The purpose of the registration is to identify providers so that the state can provide services to them, as

well as to gather data which might be useful in planning.

The Sixth option for the states: Abandon the Effort to License or the Register

The final option for states, if they do not foresee the staff commitment to family day care which licensing demands, and do not choose to implement one of the above four models of registration, might be to abandon the effort entirely, and place major emphasis on other ways of achieving improvement in quality. This suggestion may appear dramatic and drastic, but upon analysis, it is not far from what some states are now doing in actual practice. Some states which have statutory authority to license family day care are dealing almost entirely with homes which are publicly funded through their Welfare Departments. Even if they did not license, these departments would still be obligated to monitor quality to be sure that federal funding requirements are met. State funding requirements could be adopted. Even if there were no licensing authority, such states would be regulating the same homes through fiscal administration, without promising a protective service to all children which they are not delivering. Putting staff energy into the task for enforcing fiscal

requirements for public funds, without confusing it with licensing, would be more realistic and more logical for such states.

Other states do license private homes without confusing licensing with purchase of care. But some of these states have defined family day care in such a way that most out-of-home care of small numbers of children is exempt from licensure.

A state choosing this last option for dealing with family day care is making a decision not to rely on licensing or registration. Instead, the state would put its energies into enforcement of funding requirements, which it must do in any case, relying on its child protective legislation to correct gross abuse and neglect, and concentrating on what it can do in a non-regulatory way to upgrade and assist the family day care network which now exists.

The underlying assumption of this option is that parents do not need or want state intervention in family day care, beyond the enforcement of improved legislation for child protection. A further assumption is that funds which might have gone into licensing can go into services to the family day care providers and parents, and education of the public as to the need for quality in the care of children.

Some of the services which the state might find feasible to offer to the family day care network might include any or all of the following: health examinations, loan of books, toys, and equipment;

provision of funds for subsidy to renovate a home to make it safer and more usable for children's play; information to parents and providers; counseling upon request, to parents and providers; education and training, for both parents and providers; voluntary registration with referrals; a directory; a newsletter; referral of parents to potential providers; referral of parents or providers to community services, such as health, social service, recreation, employment and training, protective and other services; substitute arrangements for emergency situations or for training opportunities; a central meeting place where parents and providers could go, for information on child care activities and the opportunity to meet others in the field of family day care as well as nursery center staff and parents, modelled on the successful Gathering Place in Tompkins County, New York. [27]

A Comparison of the Six Options with Regard to Certain Key Variables

Statutory Change - For states which have a family day care licensing statute, it would be necessary to change this statute to adopt most of the other five options other than licensing. One exception is the second option, licensing as a form of licensure. For this option, states can probably leave their statute unchanged while they experiment in order to field test registration. However, in the long run a change is desirable to avoid confusion of the public. The third option, by definition

requires a change to language which is directing rather than enabling. For the fourth option, registration with requirement of training, the required training as well as the requirement of registration would have to be written into the statute. The language needed would be: "any person caring for a child or children in a family day care home shall register with the department. The Department shall require successful completion of training approved by the state before the home may be registered."

The question of whether the state can require continuing participation each year in an ongoing training program is somewhat controversial, and requires further exploration. Certainly the state can require the initial training, and can offer continuing workshops and training opportunities. If continued participation in training is a part of a state's plan, this provision had better have statutory language supporting it.

The fifth option would need statutory language authorizing registration.

The sixth option would require repeal of the licensing statute, and should include strengthening of child protective statutes.

Requirements - The last three options do not have program requirements. Licensing, registration as a form of licensing, and registration as directing regulation, all have requirements which can be enforced.

Authority of state regulatory staff to visit - In the second option,

registration as a form of licensing, the state does have the authority to make visits and inspections, as it also does in the third option, registration as directing regulation. Coverage of all homes through visits would not be attempted in the second model, although it might be in the third model. In the second model, the state has the authority to move on complaints, and it may decide to do limited supervisory visits. In the third model, home visitors provide consultation and inspect for compliance with the requirements.

In the fourth model, registration with required training, as well as the fifth, which is simple registration, the state does not visit or enforce any requirements.

Staff requirements - Licensing makes very heavy demands for professional staff. The second model, registration as a form of licensing, can be staffed at three different levels as three variations. The first of these is a minimal staffing pattern of well trained clerical staff under professional supervision; and the two other levels and additional staff to enrich the effectiveness of the model. The third option, registration as directing regulation, requires a rather large number of home visitors if implemented in the proposed form. It is possible that a variation could be developed using less staff. The fourth model, registration with required training, requires minimal clerical staff for the registration, with a modest commitment of professional staff for training. The fifth model, simple registration,

requires minimal clerical staff, although the assumption is that other staff will be providing services to the homes.

What the State Guarantees - Under licensing, the state guarantees protection to all children in family day care through enforcement of requirements prior to operation. The second model, registration as a form of licensing, makes no such safeguarding guarantees. However, it backs up parents who complain, and can enforce the requirements. The third model, the directing model of registration, guarantees state action against known violators. In the fourth, or training model of registration, the state guarantees that all providers are oriented. In the fifth option, simple registration, the state makes few guarantees, only that there are a certain number of day care homes known to the state. The sixth option would make no guarantee of quality or protection, unless public funds are spent in the home, in which case federal funding requirements would be enforced. States could choose to apply additional state funding standards.

The role of parents - In traditional licensing, if fully implemented parents would be protected by the state. In the second option. registration as a form of licensing, the parent has a prime role as negotiator with the day care provider, with back-up support from the state. In the third option, parents are protected by the state. In this directing form of registration, parents could report violations,

after first trying to get the family day care provider to meet the requirements. In the fourth model, registration with training, parents are still the prime monitors of quality, but the state assists in upgrading of quality through the training program. Some parents could be included in the training program as a variation on the model. The fifth model, simple registration, and the final option rely on parents' responsibility to choose their own services and negotiate with the service providers without state intervention other than fiscal requirements and child protective enforcement.

Other variables - A fuller comparison is made in the following charts.

COMPARISON OF LICENSING, FOUR MODELS OF REGISTRATION, AND NON-REGULATION

	Traditional Licensing	"Enabling" model of registration	"Directing" model of registration	Registration & required training	Registration	Not Licensing or registering
Is a statutory change necessary?	Not unless there is an adequate statute May need to give statutory authority to consult.	Change for clarity.	Change to directive language.	Require registration & training	Yes, require registration	Repeal if licensing law exists; strengthen c.p. law
Is there a record of the homes, updated and annually published?	Yes	Yes	Yes	Yes	Yes	No
Are there requirements?	Yes	Yes	Yes	No	No	No
Does the state have the authority to visit?	Yes	Yes, limited use	Yes	No	No	No
What is the function of the visit?	Supervisory, with consultation upon request	Consult, possibly limited supervision	Consult & inspect for violations	n/a	n/a	n/a
How much coverage is achieved in visiting in theoretic model?	Total	Sampling, on complaint or request	Total	n/a	n/a	n/a
Does the state have the authority to move upon complaints?	Yes	Yes	Yes	No, except for c/p violations	No, except for c/p violations	No, except for c/p violations
Are penalties invoked?	Yes, if operating w/out a license	Yes, if operating w/out registering or if dropped from registry	Yes, if violating standards	Yes, if operating w/out registering	Yes, if operating w/out registering	No
Is there denial or revocation of permission to operate?	Yes	Deny on basis of complaint investigated or possibly some spot checking	No	Yes	No	No
Is there annual renewal?	Usually, yes	Yes	Not recommended	Not necessarily	Not necessarily	No

COMPARISON OF LICENSING, FOUR MODELS OF REGISTRATION, AND NON-REGULATION

	Traditional Licensing	"Enabling" model of registration	"Directing" model of registration	Registration and required training	Registration	Not licensing or registering
Is training an essential aspect of the model?	Is required in a few states.	Not reqd. Cd. be offered	No	Yes	Not reqd. cd. be offered	Not reqd. Cd. be offered
How much staff is needed?	Large staff, technically trained	Different levels of staffing, minimal to moderate cost	Large staff	Minimal well-trained clerical w/professional supervision	Minimal well-trained clerical w/professional super.	None, in regulation, but relies on c/p & program staff
What does the state guarantee?	Enforcement of requirements prior to operation	No safeguarding. Enforces requirements on complaint	State action against known violations.	All providers are oriented	Home is known to state	Nothing, except through c/p fiscal regulation
NON-REGULATORY ASPECTS						
Is there reliance on public education?	No special reliance	Some reliance	No special reliance	Some reliance	Heavy reliance	Should be important aspect
Does the model rely heavily on the provision of services to the family day care homes?	Not part of but often included	May rely	Visitors play helping role	Not part of model, but may include	Heavy reliance	Should be important aspect
What is the role of parents?	Protected by state	Important prime responsibility, with support of state	Protected by state, could report, complain; home visitors report violations 1st to parents	Prime responsibility for quality, state assisting through training	Model relies on parent's responsibility to choose and negotiate with own service without intervention. May be informed of child protective laws, parents' rights under funding requirements	
RELIANCE ON OTHER REGULATION						
Does the model depend conceptually for its success on the use of other forms of regulation?	May rely on safety, sanitation enforcement, but this reliance is not recommended	Relies somewhat on c/p enforcement	Relies somewhat on c/p enforcement & includes upgrading of that enforcement	No	Relies heavily on c/p enforcement & fiscal regulation	Relies heavily on c/p enforcement & fiscal regulation

Incentives for registration

There is a question whether the unlicensed family day care homes would in fact come forward to operate legally under a registration type of regulation. Certainly there is more chance that they will than if the present major disincentives remain in place, but the possibility remains that these homes would remain unregulated regardless of the method of regulation. Until registration is field tested, and some data is gathered, we will not know whether full coverage could be achieved or not.

Whatever method of regulation is selected, attention must also be paid to developing incentives to get the homes registered or licensed. The state agency also has a responsibility to publicize the fact that registration or licensing is required.

Field investigation of what would constitute incentives for registration or licensing is also needed. Discussions with family day care mothers in Massachusetts produced the recommendation that incentives need to relate to the actual needs which family day care providers perceive, in contrast with visits to confirm the fact that they meet standards, or uninvited educational consultation.

A few things came through as family day care mothers expressed their own perceptions of their needs:

- an end to isolation. The support system can be as simple as knowing the other family day caregivers in town.

-status and importance

- help with parents, in making expectations clear

- inexpensive liability insurance

- help in collecting the money if the state is subsidizing the care.

- help with meeting the medical requirements.

In response to these needs, and to the general point of view that the very simple and basic needs be met before more ambitious enrichment is attempted, several incentives could be developed.

(1) One incentive is the potential referral service which the registry would represent. Without going through bureaucratic red tape, as in licensing, the provider could counton the fact of her service being made known, without endorsement to the potential providers in the area.

(2) Another incentive would be state help in developing a group insurance plan.

(3) States might remove the requirement of a pre-admission physical examination for children, and offer instead a health service. This would eliminate one major deterrent to licensure or to registration, and at the same time offer a needed service to the child in the program. Two advantages which make such a proposal worthy of consideration are: First, it would stop the present over-reliance on pre-admission medicals as a way of identifying problems when in fact physical examinations

seldom identify problems; and second, it would remove a deterrent to families using family day care if they are fearful of medical services, getting them accustomed to good health care through the day care network.

(4) Another incentive is the added prestige which the official recognition from the state would bring. The state agency could further develop this sense of prestige through its community education efforts, and through offering training.

(5) The state agency can use newsletters, meetings, and other techniques to reduce the sense of isolation which some family day care mothers may feel in certain communities where they do not have the support of neighbors or adult members of their own family. A chance to know other family day care mothers and to identify with the group engaged in this work will fill a need for some family day care mothers, and their satisfaction after identifying themselves may attract others to do likewise. Some contact with the day care center providers, and the academic community might also be encouraged.

(6) If family day care mothers are in contact with one another, they can begin to share, and to see themselves as a service network. In the August busy season, for example special effort could be made at recruitment of users. Groups of family day care mothers could plan a single intake process after a group advertisement, such as "We the registered (or licensed) family day care homes in Blanket County will

be receiving applications for the care of children during the next two weeks. Please telephone Mrs. Soandso . . ."

(7) If the expenditure of public dollars is an incentive, the requirement that public funds only be spent in registered or licensed homes, enforced by the state, would be an incentive as well. However, the receipt of public funds will not be an incentive as long as children's services are underfunded by the state, and as long as a stigma is allowed to continue to be associated with the children who are eligible. States must at least be sure that their rates are adequate before considering funds to be an incentive.

(8) Some of the other incentives which the agency can develop might include all the services listed above under the sixth option, page 48. In addition, a career ladder might be developed up into the administrative service, or regulatory agencies; or to day care centers.

It is not necessary for the regulatory agency to think in terms of meeting this type of service need from its own resources. Often it is more appropriate for such services to be provided through another agency or group. Planners should compare the overall costs and needs and make some overall judgments about how best to help the family day care network provide good care for children. Staff in the child care regulatory agency should work with a variety of other state agencies and community groups to develop a stronger support system for the family day care homes, as a way of enticing providers into the light of day.

Costs of the various alternatives

Hard data is not presently available about the various costs which might be entailed by different packages of these models. The information which is needed would compare the costs of traditional licensing to the costs of a registration model plus a specific package of services. For example, it might be asked whether it is more expensive to provide health services to children, than to enforce a requirement that health services be provided.

Further investigation is needed of that kind of question. The following are some hypothetical cost, deliberately budgeted low, for use as a point of departure.

Hypothesized costs of the various alternatives (excluding space costs) per 1000 units

Option 1. Cost of licensing 1000 family day care homes

20 trained or experienced staff $8000	$160,000	
4 clerical	25,000	
printing and supplies	10,000	
Travel	5,000	
Total	200,000	or $200/unit

(Exclusive of building inspections, another $10,000 probable)

Option 2. Cost of a program of registration as enabling regulation for 1000 homes

First level:	1/2 clerical staff	3,500	
	Printing and supplies	10,000	
	Supervision	2,000	
		15,500	or $15.50/unit
Second level:	1/2 clerical	3,500	
	Printing and supplies, media	20,000	
	3 trained and/or experienced staff	24,000	
		47,500	or$47.50/unit
Third level:	1 clerical	7,000	
	Printing, supplies, media	25,000	
	5 trained or experienced staff	40,000	
	Travel	2,500	
		97,000	or$97/unit

Option 3. Costs of a program of registration as directing regulation, for 1000 homes

1/2 clerical	3,000	
Printing and supplies	10,000	
10 home visitors	80,000	
Supervision	8,000	
Travel	5,000	
	106, 000	or$106/unit

Option 4. Costs of a program of registration and training for 1000 homes

1/2 clerical	3,500	
Printing and supplies plus consultants	20,000	
2 trained or experienced staff	16,000	
	39,500	or$39.50/unit

Option 5. Cost of a program of registration without requirements for 1000 homes

Note: This model would probably also expend some funds for a program of services, see below, to provide incentives for registration.

1/2 clerical staff	3,500	
Printing and supplies	10.000	
Supervision	1,000	
	14,500	or $14.50/unit

Incentives: Costs of a program of services to 1000 family day care homes

2 trained or experienced staff $8000
Clerical
Minor renovation, loan equipment, kits, etc.
Printing, supplies, consultants

Incentives: Costs of a program of services to 1000 family day care homes

2 trained or experienced staff $8000	16,000	
Clerical	6,000	
Minor renovation, loan equipment, kits, etc.	50,000	
Printing, supplies, consultants	20,000	
Travel to training, substitutes	10,000	
Health services	10,000	
	118,000	or $118/unit

In the long run, it is not desirable that states should adopt a variety of models of regulation of family day care. It will be confusing to the public and undermine successful regulation unless there is some consistency and clarity from state to state in dealing with family day care.

Yet as suggested above, we do not have solid experience and data on which sould long-run decisions can be made. At this point no one can say with certainty that any of these described models will achieve its goals better than any other. We have not even seriously attempted licensing anywhere to be able to draw conclusions from that experience with assurance, although one study found some evidence that licensed family day care is of higher quality than unlicensed.

It would be useful if some states would field test the above models for a period of time and study the results carefully. An overall comparative study of such experiments is also needed.

Although a uniform model is needed for the long run; at present it can only be said that decisions about the most feasible model of regulation may legitimately vary from state to state. Decisions will be based on a number of factors.

Questions which policy makers should be asking about any of the above alternatives for family day care regulation, and investigating through field testing and study, would include the following:
First and foremost, does the model serve the child? Is it adequate to

achieve a level of quality in family day care sufficient to assure adequate nurture and protect children from physical danger and emotional and intellectual starvation?

Other questions:

- Is the regulation acceptable to parents?
- Does the public support it?
- Is it constitutional? Is it legally appropriate for its goals?
- How much coverage of family day care homes can it achieve?
- Will providers accept it, and offer their services legally?
- What incentives can feasibly be built into the model to encourage greater participation by providers?
- Can it be enforced equitably for all family day care homes?
- Can it deliver on whatever guarantee it appears to make in the public understanding of it?
- If it relies heavily on other regulation, or on other types of service, or on community education, will those other actions be taken, and adequately financed?
- What is the state's child protective legislation? Is it adequate to protect children out of their homes as well as in their homes? What is the level of public knowledge of it?
- How much licensed and how much unlicensed family day care exists in the state?

- How do family day care providers and parents perceive one another?
- What is the nature of family day care in different geographic areas of the state? To what degree is it offered by neighbors in neighborhoods where people know each other and share concerns and values? To what degree is it offered by neighbors or strangers who are unsupported by a community?
- What is the present unit cost of licensing family day care?
- What is the present unit cost of licensing, plus health and safety inspection of family day care?
- What is the maximum work load which a licensing worker can carry, in numbers of family day care homes? What is the maximum work load which a licensing worker can carry and provide adequate supervision? What is a reasonable work load which a licensing worker can carry and feel sure the quality of the care is well known?
- How much staff would be required to license all the licensable units in the state?
- What would be the cost per unit?
- Can the regulatory agency realistically expect to assign this staff to family day care licensing in the next three years? ever?

- How much staff would be required to regulate all units using a selected alternative model:
- What would be the cost per unit and the total cost to regulate family day care by this alternative model?
- What is the reason for the growth in the number of family day care homes?

Lastly, there are two considerations which are <u>not</u> suggested as the basis for decision. The first of these is: will it save money? None of these models should be viewed as a way of cutting back budget commitments. So little money has been committed to family day care regulation in most places, and so little coverage achieved, that it is clear that this is a service where more, not less, resources are clearly needed. The decisions must be made on what is the most feasible and most productive way to allocate those additional resources in the future. More of the same may be less productive than trying to use staff in another way.

The second factor which should <u>not</u> be considered a basis for decision is: how much authority is used in the model? Many professionals in social welfare and early childhood education have a psychological bias against regulation, and tend to flee from enforcement into the more familiar shelter of consultation. It is not the intention of the foregoing analysis to support that psychological need to evade police powers. Poor services do exist, children are at

risk in family day care, and the licensing and other regulatory agencies do have a responsibility to prevent harm.

Summary

The future of any society must depend upon its commitment to the nurture of its youngest members. The country has moved through many changes over the last hundred years in the degree of support which communities have given families in this essential function. At one time we were an essentially rural society, in which both women and children had work roles, and in which the work place coincided with the home place so that children had many opportunities to relate to adults, and many adults participated in the bringing up of children. At that time a concerned community of shared values was deeply involved in child rearing.

The industrial revolution brought major changes. The work place shifted to a location away from the homes where women and children lived, bringing a new isolation to children and home-based women. Social mobility and urban growth broke down some of the stability of communities, and some degree of the community supervision of its youngest members. The recent startling increase in the number of working mothers challenges our social institutions to take new forms in support of families with children. Since a very high percentage of the children of working mothers are cared for in family day care arrangements, our response to this challenge is of vital importance.

At this moment, we are not succeeding in our programs for licensing family day care. New ideas are being proposed, but little testing has been done. There is a great need for some states to try out new ways of regulating family day care, or improve the old ways, to produce some needed information and the opportunity for comparative study.

We know that mothers of young children today have less community and extended family support than ever before, and that children in family day care need protection. There are not proven answers at present as to the most effective ways to protect children and support parents. This paper has been an attempt to begin asking the questions, in hope that the urgency of the task will inspire further work leading to more solid answers.

This paper could not have written without the help of Edna Hughes of the Office of Child Development, who not only answered every request for information with a wealth of material, but also collaborated in conceptualizing and clarifying the ideas. It should be clear, however, that any errors of logic are the author's, since Miss Hughes would never make an error of logic. The paper has also relied heavily on the writings, lectures, discussion and help of Norris Class. I am indebted to Peggy Pizzo and Linda Macauley for their clear thinking and close touch with reality. Finally, I wish to thank the many people in the field who have reviewed earlier drafts of the paper, and especially those unsung heros and heroines in licensing offices who are deeply concerned to find better ways of assuring a happy life for children in family day care.

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